



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

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No. _____

**TESTIMONY ON HOUSE BILL 629
RELATING TO MEDICAL RELEASE.**

by

Nolan P. Espinda, Director
Department of Public Safety

House Committee on Public Safety, Veterans, and Military Affairs
Representative Gregg Takayama, Chair
Representative Cedric Asuega Gates, Vice Chair

Friday, February 1, 2019; 10:00 a.m.
State Capitol, Conference Room 430

Chair Takayama, Vice Chair Gates, and Members of the Committee:

The Department of Public Safety (PSD) supports House Bill (HB) 629, which codifies the ongoing Medical Release program, in which PSD assesses and refers qualified inmates to the Hawaii Paroling Authority for possible medical release and which has existed in practice for several years and is now in the process of being promulgated through the Administrative Rules procedure.

HB 629 also updates Chapter 346-29, Part I, Section 1, Hawaii Revised Statutes (HRS), that states, in part, "an inmate who is on medical release pursuant to subpart B of part II of HRS Chapter 353, shall be presumed eligible for receive medical assistance." The Department has some concern that this change in the statute will result in a significantly increased number of applications for Medical Release, which will add substantially to the workload of PSD's Health Care Office, as well as, that of other Corrections Program and facilities' staff. However, this concern may be addressed with an infusion of funding for the affected areas.

PSD also notes that the Department established a partnership in 2016 with the Department of Human Services MedQuest Division to ensure that all prison

Testimony on HB 629
House Committee on Public Safety,
Veterans, and Military Affairs
February 1, 2019
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inmates who exit a correctional institution are provided the opportunity to apply for Medicaid prior to release, allowing the exiting inmate to be qualified to receive medical services upon release. This also applies to those who are approved for Medical Release by the Hawaii Paroling Authority.

Thank you for the opportunity to present this testimony.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
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KEITH M. KANESHIRO
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DWIGHT K. NADAMOTO
ACTING FIRST DEPUTY
PROSECUTING ATTORNEY

LATE

**THE HONORABLE GREGG TAKAYAMA, CHAIR
HOUSE COMMITTEE ON PUBLIC SAFETY, VETERANS, & MILITARY AFFAIRS**

**Thirtieth State Legislature
Regular Session of 2019
State of Hawai'i**

February 1, 2019


RE: H.B. 629; RELATING TO MEDICAL RELEASE.

Chair Takayama, Vice-Chair Gates, and members of the House Committee on Public Safety, Veterans & Military Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in opposition to H.B. 629.

The purpose of H.B. 629 is to establish and implement policies and procedures in which inmates may be considered for medical release. Currently, the Department of Public Safety has adopted Policy COR.10.1G.11 which has been in effect since December 29, 2014. This 2014 policy supersedes a similar administrative directive that had been in effect since February 2, 2011 which establishes administrative policies and procedures regarding the medical release of inmates (See Attached Exhibit A). As adopted, Policy COR.10.1G.11 adequately addresses the purpose, definitions, policies, procedures and scope regarding medical release of inmates. Thus, the passage of H.B. 629 to codify such procedures for medical release of inmates is unnecessary, duplicative and moot at this time.

In addition, the Department is concerned that the procedures as currently proposed in H.B. 629 would create unnecessary delays in the current medical release process being implemented by the Department of Public Safety and the Hawaii Paroling Authority, thus achieving the opposite effect H.B. 629 proposes to resolve.

For all the reasons above, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes the passage of H.B. 629. Thank you for the opportunity to testify on this matter.

	DEPARTMENT OF PUBLIC SAFETY CORRECTIONS ADMINISTRATION POLICY AND PROCEDURES	EFFECTIVE DATE: DEC 29 2014	POLICY NO.: COR.10.1G.11
		SUPERSEDES (Policy No. & Date): COR.10.1G11 (02/06/2014)	
	SUBJECT: MEDICAL RELEASES		Page 1 of 3

1.0 PURPOSE

To establish guidelines for the requesting of a medical release recommendation for inmates experiencing terminal or severely disabling conditions.

2.0 REFERENCES AND DEFINITIONS

.1 References

- a. Hawaii Revised Statutes; Section 26-14.6, Department of Public Safety (PSD); and Section 353C-2, Director of Public Safety, Powers and Duties; Section 353-13.5, Election of private medical or psychological care by prisoners.
- b. National Commission on Correctional Health Care, Standards for Health Services in Prisons and Jails, (2014)
- c. Williams, BA, Sudore RL, Greifinger R, Morrison, RS. "Balancing Punishment and Compassion for Seriously Ill Prisoners." Ann Intern Med. 2011. July 19: 155(2): 122-126: doi: 10.1059/0003-4819-155-2-201107190-00348.

.2 Definitions

- a. Terminal Illness: A progressive and incurable medical condition that is expected to result in death.
- b. Debilitating disease or illness: A persistent and/or progressive illness that impedes a patient's mental and/or physical capacities, and compromises that patient's quality of life.
- c. Medical Release: A release of an inmate before the expiration of his or her expected sentence completion date based on the inmate's deteriorating condition.
- d. Prognosis: A prediction of the probable course and outcome of the disease

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EXHIBIT A

<p>COR</p> <p>P & PM</p>	<p>SUBJECT:</p> <p>MEDICAL RELEASES</p>	<p>POLICY NO.:</p> <p>COR.10.1G.11</p>
		<p>EFFECTIVE DATE:</p> <p>DEC 29 2014</p>
		<p>Page 2 of 3</p>

- e. Functional description: An assessment of a patient's ability to eat, perform personal care, ambulate, comprehend and recall information, and communicate this understanding.

3.0 POLICY

A medical release shall only be recommended by a physician employed by the Department. A request for a medical release initiated by an inmate shall be reviewed in accordance with the procedures delineated in this policy.

Inmates will be considered for medical release if they meet one or more of the following criteria:

- The inmate has a terminal illness with a predictably poor prognosis
- The inmate has a seriously debilitating and irreversible mental or physical condition that impairs the inmate's functional ability to the extent that they would be more appropriately managed in a community setting
- The inmate is too ill or cognitively impaired to participate in rehabilitation and/or to be aware of punishment
- The inmate has a disease or condition that requires a complexity of treatment or a level of care that PSD is unable to provide on a long-term basis.

4.0 PROCEDURES

- .1 The patient or his or her legal guardian shall be required to sign a Release of Medical Information form, DOC 404A.
- .2 An inmate may submit a recommendation from a private licensed medical doctor, if the recommendation is obtained pursuant to Section 353.13.5 of the Hawaii Revised Statutes.
- .3 Physicians employed by PSD shall evaluate all requests for medical release recommendations.
- .4 The patient's primary care physician shall draft a memorandum to the Health Care Division Medical Director requesting a medical release recommendation for a patient. At a minimum, the information supplied to the Medical Director include the patient's name, SID number, date of birth, diagnoses with a description of the condition(s), a functional description of the patient, and designate the criteria for medical release that are met.

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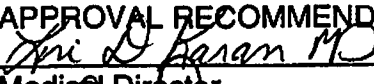

<p style="text-align: center;">COR P & PM</p>	<p>SUBJECT:</p> <p style="text-align: center;">MEDICAL RELEASES</p>	<p>POLICY NO.: COR.10.1G.11</p>
		<p>EFFECTIVE DATE: DEC 29 2014</p>
		<p>Page 3 of 3</p>

- .5 For patients subject to parole, the Clinical Section Administrator (CSA) shall request an abbreviated prescriptive plan (PPU) from the facility where the inmate is housed. At a minimum, the PPU shall include the inmate's risk assessment, prison behavior, participation in required programs, detention charges, sentences, and inmate custody status and conviction history. The PPU shall be attached to the request and forwarded to the Medical Director of the Healthcare Division, PSD.
- .6 If the patient is not subject to parole because he/she is serving a determinate sentence of less than one year, the CSA shall request a report from the facility summarizing the information described in 4.5 above.
- .7 The Medical Director shall approve or disapprove the physician's recommendation request. All recommendation requests shall be forwarded to the Corrections Health Care Administrator (CHCA).
- .8 The CHCA shall then submit the packet with a cover memorandum recommending a medical release to the Director through the Deputy Director for Corrections (DEP-C). The cover memorandum shall have a signature line for the Director and the DEP-C to acknowledge the Health Care Division's (HCD) recommendation.
- .9 The Director shall then forward the recommendation to the Hawaii Paroling Authority (HPA) with comments. All recommendations shall be forwarded to HPA for a decision.
- .10 The HCD may resubmit an updated medical release recommendation should a previously denied inmate's condition changes.

5.0 SCOPE

This policy and procedure applies to all correctional facilities and their assigned personnel.

APPROVAL RECOMMENDED:

	12/29/14
Medical Director	Date
	12/29/14
Corrections Health Care Administrator	Date
Deputy Director for Corrections	Date

APPROVED:  DEC 29 2014

Director Date

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STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

AUTHORIZATION TO RELEASE MEDICAL INFORMATION

To: _____
(DR./Facility in Possession of Record)

(Address)

(City) (State) (Zip Code)

FROM: _____
(MD/Person/Facility Making the Request)

(Address)

(City) (State) (Zip Code)

I authorize the release of the following protected health information _____

_____ for the purpose of my (select one):

- ☐ continued health care
☐ other: _____

I understand I have the right to revoke this authorization by writing a letter to the requestor anytime prior to the actual release of information. I understand that this authorization is valid for one year from the "Date of Signature." I will not hold the person/agency in possession of my protected health information liable for the further dissemination of the information once it is released to the requestor. Treatment, payment, continued enrollment in a health plan, eligibility benefits, coercion, or remuneration are not conditions of this authorization.

(Print Name of Patient/Representative)

(Date of Birth)

(Signature of Patient/Representative)

(Date of Signature)

My signature below indicates that I also authorize the release of the following protected health information:
(Initial all that apply):

- _____ Mental health/behavioral health/psychiatric care/ psychiatric treatment records
_____ Alcohol/substance abuse treatment records
_____ HIV screening and diagnostic results/treatment records

I understand the sensitive nature of the information and that if the protected health information is entered as evidence in a court case they become public record.

(Signature of Patient/Agent)

(Date of Signature)

(Signature of Witness)

(Date of Signature)

Original: Person or Facility in Possession of the PHI
Yellow: Medical Record
Pink: Inmate

DAVID Y. IGE
GOVERNOR



PANKAJ BHANOT
DIRECTOR

CATHY BETTS
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 1, 2019

TO: The Honorable Representative Gregg Takayama, Chair
House Committee on Public Safety, Veterans and Military Affairs

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 629 – RELATING TO MEDICAL RELEASE**

Hearing: Friday, February 1, 10:00 a.m.
Conference Room 430, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports the intent of the bill and offers comments.

PURPOSE: The purpose of this bill requires the Department of Public Safety to assess and refer inmates to the Hawaii Paroling Authority (HPA) for possible medical release. Allows an inmate to be considered for medical release at the request of the director, the inmate, or the inmate's representative, if the inmate meets specified criteria. Requires the HPA to grant or deny the request after a hearing, to set reasonable conditions on an inmate's medical release, and to promptly order an inmate returned to custody to await a revocation hearing if the HPA receives credible information that an inmate has failed to comply with any reasonable conditions of medical release. Makes inmates on medical release presumptively eligible to receive medical assistance from the Department of Human Services.

DHS offers comments on the proposed amendment that states "An inmate of a public institution who is on medical release pursuant to subpart B of part II of chapter 353 shall be presumed eligible to receive medical assistance." Presumptive eligibility in this scenario is not part of Hawaii's State Plan for Medicaid, and therefore would not be compliant with the rules set forth by the Centers for Medicare & Medicaid Services (CMS).

Further, there is an existing partnership between the Department of Public Safety (PSD) and MQD addresses the need to ensure those scheduled for release from incarceration are able to apply for Medicaid prior to their release. This partnership includes data sharing improvements between PSD and DHS that allow for more systemic improvements in Med-QUEST's (MQD) ability to suspend and un-suspend enrollment in Medicaid for those taken into and released from custody. Additionally, MQD and PSD have collaborated to work through challenging cases that may present themselves and require a more hands-on approach.

Thank you for the opportunity to testify on this bill.

HB629
RELATING TO MEDICAL RELEASE

House Committee on Public Safety, Veterans, & Military Affairs

February 1, 2019

10:00 a.m.

Room 430

The Office of Hawaiian Affairs Beneficiary Advocacy and Empowerment Committee (OHA) will recommend that the Board of Trustees **SUPPORT** HB629, which establishes streamlined guidelines and clarifies conditions for the compassionate release of prisoners who are disabled, senescent, or suffering from debilitating or terminal illness. This measure would facilitate the humane reunion of offenders who pose little to no risk to society with their ‘ohana and community, while reducing the costs of prison overcrowding to the state, taxpayers, and other inmates.

In OHA’s 2010 study on the disparate treatment of Native Hawaiians in the criminal justice system, OHA recommended that the Hawai‘i Paroling Authority “release older people from prison who are generally considered to be low risk, and utilize Hawai‘i’s medical parole policies to the fullest extent possible.”¹ This recommendation sought to reduce to the overrepresentation of Native Hawaiians in prison and provide relief to the burdens of overcrowded facilities and the continental relocation of pa‘ahao; OHA’s report noted that “an overall reduction in the number of people in prison will support efforts to reduce racial disparities” identified both in our report, as well as by the Native Hawaiian Justice Task Force.² **OHA appreciates and supports this measure as a long awaited step towards the implementation of our recommendation.**

OHA notes that this measure would further address findings in the recently published report by the HCR85 Task Force on prison reform. The HCR85 Task Force report expressed concerns regarding the exorbitant healthcare costs for aging prisoners, and the state’s lack of capacity to handle the rapidly increasing aging population in our prisons.³ Accordingly, facilitating the medical release of such individuals would ease a significant burden on taxpayers, while reducing the strain on prison facilities and other resources presented by overcrowding, and allowing more resources to be invested in programs and services for prisoner rehabilitation, reentry, and recidivism prevention. Insofar as the supervised parole of elderly, sick, and dying

¹ THE OFFICE OF HAWAIIAN AFFAIRS, THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM 81 (2010), *available at*

http://www.oha.org/wp-content/uploads/2014/12/ir_final_web_rev.pdf.

² See generally, OFFICE OF HAWAIIAN AFFAIRS, NATIVE HAWAIIAN JUSTICE TASK FORCE REPORT (2012), *available at* http://www.oha.org/wp-content/uploads/2012NHJTF_REPORT_FINAL_0.pdf.

³ HCR 85 TASK FORCE, CREATING BETTER OUTCOMES, SAFER COMMUNITIES: FINAL REPORT OF THE HOUSE CONCURRENT RESOLUTION 85 TASK FORCE ON PRISON REFORM TO THE HAWAII LEGISLATURE 7 (2018), *available at* https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR-85-Task-Force-on-Prison-Reform_Final-Report_12.28.18.pdf (citing a 2011 study revealing that health care costs for a few California prisoners averaged nearly \$2 million per prisoner).

pa‘ahao presents little to no risk to the public, the continued costly incarceration of this population cannot be justified both from either a budgetary or a humane approach.

Therefore, OHA urges the Committee to **PASS** HB629. Mahalo for the opportunity to testify on this important measure.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
HAWAII PAROLING AUTHORITY
1177 Alakea Street, First Floor
Honolulu, Hawaii 96813

EDMUND "FRED" HYUN
CHAIR

JOYCE K. MATSUMORI-HOSHIJO
MICHAEL A. TOWN
ANNELLE C. AMARAL
FITUINA F. TUA
MEMBERS

TOMMY JOHNSON
ADMINISTRATOR

No. _____

TESTIMONY ON HOUSE BILL 629
A BILL FOR AN ACT RELATING TO MEDICAL RELEASE
BY
HAWAII PAROLING AUTHORITY
Edmund "Fred" Hyun, Chairman

House Committee on Public Safety, Veterans, & Military Affairs
Representative Gregg Takayama, Chair
Representative Cedric Asuega, Vice Chair

Friday, February 1, 2019, 10:00 a.m.
State Capitol, Conference Room 430

Chair Takayama, Vice Chair Asuega, and Members of the Committee:

The Hawaii Paroling Authority (HPA) supports the intent of this House Bill 629, which seeks to broaden the criteria that the HPA follows to consider inmates for medical release.

While the HPA defers to the Department of Public Safety (PSD) for most of the provisions outlined in this measure, the Authority is concerned that requests from inmates and/or their representative sent directly to the HPA needlessly delays the process. All medical release considerations should be reviewed by PSD prior to forwarding to HPA.

Also, clarification regarding the proposed medical release hearings process and timeline are needed. The PSD and HPA already have procedures in place to address medical release consideration, which includes HPA's proposed amendments to this agency's Administrative Rules. In part, the proposed amendments create identical language for medical release consideration as outlined in PSD's Policy COR.10.1G.11 (Medical Releases).

Thank you for the opportunity to provide testimony on House Bill 629.

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

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COMMITTEE ON PUBLIC SAFETY, VETERANS, & MILITARY AFFAIRS

Rep. Gregg Takayama, Chair

Rep. Cedric Asuega Gates, Vice Chair

Friday, February 1, 2019

9:30 am

Room 430

SUPPORT with AMENDMENTS - HB 629 - COMPASSIONATE RELEASE

Aloha Chair Takayama, Vice Chair Gates and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of the families of **ASHLEY GREY, DAISY KASITATI, JOEY O'MALLEY, JESSICA FORTSON AND ALL THE PEOPLE WHO HAVE DIED UNDER THE "CARE AND CUSTODY" OF THE STATE** as well as the approximately 5,400 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day. We are always mindful that more than 1,600 of Hawai'i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

Community Alliance on Prisons supports this important measure with the following amendments for clarity:

Page 4: add two definitions:

Terminal Illness means a progressive and incurable medical condition that is expected to result in death.

Debilitating disease or illness means a persistent and/or progressive illness that impedes a patient's mental and/or physical capacities and compromises that patient's quality of life.

Page 5, lines 12 to 21 and page 6 lines 1-2 deleted and replaced with the following:

1. The incarcerated person has a terminal illness with a predictably poor prognosis;
2. The incarcerated person has a seriously debilitating and irreversible mental or physical condition that impairs the inmate's functional ability to the extent that they would be more appropriately managed in a community setting;
3. The incarcerated person is too ill or cognitively impaired to participate in rehabilitation and/or to be aware of punishment;
4. The incarcerated person has a disease or condition that requires a complexity of treatment or a level of care that PSD is unable to provide on a long-term basis.

HB 629 is an important bill because it demonstrates our community values of aloha.

The bill builds on the system that is already in place in which primary responsibility for initiating compassionate release rests with the DPS medical personnel, but allows for what is essentially an appeal process if an inmate believes that the DPS had made a mistake. An inmate can request medical release, PSD must prepare a medical report on the inmate and forward it to the Paroling Authority, and the Paroling Authority must give the inmate a hearing within 10 days. We believe the appeal process is absolutely essential because mistakes are inevitable and an appeal provides a mechanism for correcting them (or affirming the decision of the DPS if no mistake has been made).

The bill states that the Dept of Public Safety (PSD) must appoint an advocate for any inmate who requests medical release and is unable, due to incapacitation or debilitation, to advocate for himself or herself.

The department must develop a fast track procedure for the evaluation and release of rapidly dying prisoners.

The bill specifies reasonable time limits for processing requests for compassionate release and incorporates all of the key recommendations found in an article¹ on compassionate release including:

- (a) The Use of evidence-based principles;
- (b) A transparent release process;
- (c) Assignment of an advocate to help incapacitated prisoners navigate the compassionate release process;
- (d) A fast track procedure for rapidly dying inmates; and (e) A well-described and disseminated application procedure.

Community Alliance on Prisons urges the committee to pass this important bill with our suggested amendments.

Mahalo for this opportunity to testify.

¹ Balancing punishment and compassion for seriously ill prisoners. Ann Intern Med. 2011 Jul 19; 155(2):122-6)



O`ahu County Committee on Legislative Priorities (OCCL)

COMMITTEE ON SAFETY, VETERANS & MILITARY AFFAIRS

Rep. Gregg Takayama, Chair

Rep. Cedric Asuega Gates, Vice Chair

DATE: Friday, February 1, 2019

TIME: 10:00 a.m.

PLACE: Conference Room 430, State Capitol

RE: HB 629 Relating to Medical Release

Aloha mai kakou Chair Takayama, Vice Chair Gates, and Members of the Committee on Safety, Veterans & Military Affairs:

The O`ahu County Committee on Legislative Priorities (OCCLP) of the Democratic Party of Hawai`i (DPH) hereby submits its testimony in **SUPPORT of HB 629 relating to Medical Release.**

HB 629 requires the Department of Public Safety to assess and refer inmates to the Hawaii Paroling Authority (HPA) for possible medical release. HB 629 allows an inmate to be considered for medical release at the request of the director, the inmate, or the inmate's representative, if the inmate meets specified criteria and requires the HPA to grant or deny the request after a hearing, to set reasonable conditions on an inmate's medical release, and to promptly order an inmate returned to custody to await a revocation hearing if the HPA receives credible information that an inmate has failed to comply with any reasonable conditions of medical release. HB 629 makes inmates on medical release presumptively eligible to receive medical assistance from the Department of Human Services.

DPH have been inspired by the movements for criminal justice that directly address the discriminatory treatment of Native Hawaiians, Pacific Islanders and other disadvantaged ethnicities to rebuild trust in the criminal justice system. DPH requires that convicted Native Hawaiians, Pacific Islanders and all other races and ethnicities who reside within the State of Hawai`i remain incarcerated in the State of Hawai`i. *Democratic Party of Hawai`i Platform (2018), p. 8, ln. 51-54.*

DPH must take several proactive steps so that all people – regardless of location, income or history – can live full, healthy lives. Democrats will fight for increased investments and

coordination in public health to better address emerging threats as well as persistent needs across our state. Health equity among the communities remain elusive – higher income is strongly associated with longer life expectancy and the gap in life expectancy between the richest and poorest people is increasing. . . . A growing body of research demonstrates the link between social factors – such as poverty, unemployment, experience of discrimination, and housing instability – and poor health. DPH will continue to pursue policies addressing these social factors and empowering communities to respond to their most pressing health needs. *Democratic Party of Hawai'i Platform (2018), p.13, ln. 6-15.*

For the foregoing reasons, i.e., to rebuild trust in the criminal justice system and to provide health equity, OCCLP supports HB 629 and urges its passage out of the Committee on Safety, Veterans & Military Affairs.

Mahalo nui loa
Me ka `oia`i`o

/s/ *Melodie Aduja*

Melodie Aduja
Chair, O`ahu County Committee on Legislative Priorities
of the Democratic Party of Hawai`i
Ph. (808) 258-8889
Email: legislativepriorities@gmail.com

HB-629

Submitted on: 1/30/2019 8:57:22 PM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
E. Ileina Funakoshi	Individual	Support	No

Comments:

I am e. ileina funakoshi, a member of Pearl City Neighborhood Board #21 and Chair of the Public Safety Committee. i am writing to support HB629..

This bill will benefit the department by transferring responsibility of an inmate the facility is unable to provide life-sustaining medical care or afford the cost of medication required. Most importantly, it will give the family their loved ones where they can kpersonally care and communicate with them.

January 31, 2019

TO: House Committee on House Committee on Public Safety, Veterans, & Military Affairs
RE: HB 629
HEARING DATE: February 1, 2019
TIME: 10:00 AM
ROOM: 420
POSITION: **SUPPORT**

Chair Takayama, Vice Chair Gates, and members of the committee:

I am a retired attorney and for the past eight years I have been assisting prisoners who are seeking compassionate release. I also worked with the Department of Public Safety's Medical Director and Health Care Administrator in drafting the Department's current medical release policy, COR.10.1G.11 (December 29, 2014).

I am writing in support of HB 629 which is a clear, sensible and well thought out medical release bill. It will save the state money by releasing inmates who do not pose a risk to society and who often require intensive and costly care. And it creates a fair and transparent release process that will serve the interest of the public, the government and inmates.

HB 629 also incorporates all of the recommended provisions set out by the country's leading medical release experts,¹ including:

1. Compassionate release procedures should be evidence-based;
2. There should be a completely transparent compassionate release process;
3. An advocate should be appointed to help inmates navigate the process and represent incapacitated prisoners;
4. There should be a "fast-track" option for the evaluation of rapidly dying prisoners; and
5. There should be a well-described and well-disseminated application procedure.

As noted above, in 2014 I worked with PSD administrators to revise the Department's medical release policy, including the criteria for determining who would be eligible for medical release. I believe that the criteria we developed and that have been used at PSD for the past five years are

¹ See BA Williams, RL Sudore, R Greifinger, and RS Morrison. "Balancing Punishment and Compassion for Seriously Ill Prisoners." *Ann Intern Med.* 2011;155:122-126.

clear and understandable and, in my view, are an improvement over the language in HB 629. I recommend that page 5, lines 9 to 21, and page 6 lines 1-2) be deleted and replaced with the following language which is taken almost verbatim from PSD Policy COR.10.1G.11 (December 29, 2014).

§353- Medical Release Program; authority to release; rules. (a). An inmate may be considered for medical release if the inmate:

1. Has a terminal illness with a predictably poor prognosis;
2. Has a seriously debilitating and irreversible mental or physical condition that impairs the inmate's functional ability to the extent that they would be more appropriately managed in a community setting;
3. The inmate is too ill or cognitively impaired to participate in rehabilitation and/or to be aware of punishment;
4. The inmate has a disease or condition that requires a complexity of treatment or a level of care that PSD is unable to provide on a long-term basis.

If the above changes are made to HB 629, I also recommend that two definitions be put into the bill:

Terminal Illness means a progressive and incurable medical condition that is expected to result in death.

Debilitating disease or illness means a persistent and/or progressive illness that impedes a patient's mental and/or physical capacities and compromises that patient's quality of life.

Thank you for the opportunity to comment on this bill.

HB-629

Submitted on: 1/31/2019 7:52:40 AM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Polk	Individual	Support	Yes

Comments:

HB 629 is a very humane bill that I urge you to support.

HB-629

Submitted on: 1/31/2019 8:54:16 AM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Diana Bethel	Individual	Support	No

Comments:

Sick and dying prisoners deserve the right to compassionate medical release.

If an inmate meets the criteria and is able to abide by reasonable conditions, they should be released.

Their case should be rapidly evaluated and approved, especially in the case of severe illness or imminent death.

Why is this not already law?

S. Kukunaokala Yoshimoto

TO: Committee on Public Safety, Veterans, & Military Affairs
RE: HB 629
POSITION: **SUPPORT**

January 31, 2019

Chair Takayama, Vice Chair Gates and members of the committee:

My name is Shayne Kukunaokalā Yoshimoto, Program Specialist for Blueprint for Change, member of Holomua Pu'uhonua and the HCR 85 Criminal Justice Task Force, co-chair of the Native Hawaiian sub-committee.

HB 629 should be passed for many obvious reasons including but not limited to:

1. Cost savings for the state by releasing inmates who do not pose a risk to society and who often times require intensive and costly care, and
2. Creates a fair and transparent release process that will serve the interest of the public, the government and pa'ahao.

This bill also incorporates the recommendations set out by the country's leading medical release experts¹, which includes the following:

1. Compassionate release procedures should be evidence-based;
2. There should be a completely transparent compassionate release process;
3. An advocate should be appointed to help pa'ahao navigate the process and represent incapacitated prisoners;
4. There should be a "fast-track" option for the evaluation of rapidly dying prisoners; and
5. There should be a well-described and well-disseminated application procedure.

I urge the committee to pass HB 629. Mahalo a nui loa for the opportunity to testify.

¹ BA Williams, RL Sudore, R Greifinger, and RS Morrison. "Balancing Punishment and Compassion for Seriously Ill Prisoners." Ann Intern Med. 2011;155:122-126.

HB-629

Submitted on: 1/31/2019 11:09:58 AM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Manalo	Individual	Support	No

Comments:

As an individual who works in the field of re-entry from incarceration and who has worked specifically with that population, I fully support this measure as it will reduce the population of incarcerated who no longer require confinement and it will reduce the number of homelessness because there will be a transition medical plan that will benefit these individuals and ensure they are provided continuum of care and services. Thank you for allowing me to submit my testimony support.

LATE

HB-629

Submitted on: 1/31/2019 5:26:11 PM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carla Allison	Individual	Support	No

Comments:

I support this bill for the following reasons:

HB 629 greatly expands the criteria for medical release.

HB 629 an inmate can request medical release, Dept of Public Safety (PSD) must prepare a medical report on the inmate and forward it to the Paroling Authority, and the Paroling Authority must give the inmate a hearing within 10 days.

PSD must appoint an advocate for any inmate who requests medical release and is unable, due to incapacitation or debilitation, to advocate for himself or herself.

PSD must develop a fast track procedure for the evaluation and release of rapidly dying prisoners.

HB-629

Submitted on: 2/1/2019 6:32:09 AM

Testimony for PVM on 2/1/2019 10:00:00 AM

LATE

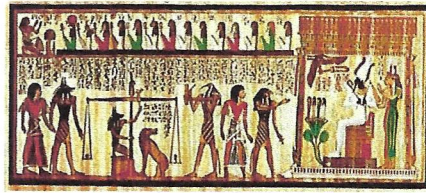
Submitted By	Organization	Testifier Position	Present at Hearing
Raelyn Reyno Yeomans	Individual	Support	No

Comments:

Strong Support!

DAPHNE E. BARBEE

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LATE

2-1-19

To: Chair Gregg Takayama, Vice Chair Cedric Gates and members of the Public Safety, Veterans and Military Affairs Committee:

TESTIMONY IN FAVOR OF HB 629

I am an attorney in private practice and had clients who were in need of compassionate relief. In one instance, the Prison doctor recommended compassionate release for a client. The Prison Administrator did not agree, even though he did not have a medical degree. As a consequence, we could not get a hearing for his medical release request. This bill ensures that inmates can request medical release and have the Paroling Authority hear the merits. After several requests, he finally was given medical release last year once it became evident that his medical needs cost over \$400,00 a year and he had repeated hospitalizations. This bill allows an inmate to request medical release, where the Dpt. of Public Safety must prepare a medical report on the inmate and forward it to the Paroling Authority, where the Paroling Authority must give the inmate a hearing within 10 days. The Dept of Public Safety (PSD) must appoint an advocate for any inmate who requests medical release and is unable, due to incapacitation or debilitation, to advocate. The Dpt. of Public Safety must develop a fast track procedure for the evaluation and release of rapidly dying prisoners. This is a good piece of legislation which should be enacted.

Thank you.

Daphne E. Barbee